

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b))	MB Docket No. 04-194
Table of Allotments,)	RM-10729
FM Broadcast Stations.)	
(Creede, Colorado))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: October 27, 2004**Released: October 29, 2004**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* (“Notice”)¹, issued at the request of Jacor Broadcasting of Colorado, Inc. (“Petitioner”), proposing the allotment of Channel 261C2 at Creede, Colorado, as its first local service. Meadowlark Group, Inc. (“Meadowlark Group”) filed opposing comments. The United States Department of Agriculture Forest Service (“U.S. Forest Service”) submitted a letter pertaining to the proposed Creede allotment. No other comments were received in response to the *Notice*.

2. **Background.** The *Notice* proposed the allotment of Channel 261C2 at Creede, Colorado with a site restriction of 15 kilometers (9.3 miles) east of the community at coordinates 37-52-56 NL and 106-45-38 WL. Meadowlark Group filed comments demonstrating that the proposed Creede allotment at the specified coordinates is an unsuitable transmitter site. Moreover, it states that the proposed Creede transmitter site is located in the La Garita Wilderness. In this regard, the U.S. Forest Service submitted a letter stating that the proposed Creede allotment is located on the National Forest System lands within the La Garita wilderness, therefore, if allotted would be in violation of the Wilderness Act of 1964² and the Colorado Wilderness Act of 1993.³ No comments were filed by the Petitioner showing a continuing expression of interest in the proposed Creede allotment.

3. **Discussion.** A showing of continuing interest is required before a channel will be allotted in compliance with the *Appendix* to the *Notice*. It is the Commission’s policy to refrain from making a new allotment to a community absent an expression of interest. Therefore, since comments were not received from the Petitioner supporting the allotment of Channel 261C2 to Creede, or any other party, we will dismiss the Petition for Rule Making. In addition, we find that the site suitability issue pertaining to the proposed Creede transmitter site is moot.

4. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.

¹ *See Creede, Colorado*, 19 FCC Rcd 8480 (MB 2004).

² Pub.L. 88-577, 78 Stat. 890 (1964) (codified as 16 U.S.C. 1131 et seq.).

³ Pub.L. 103-77, 107 Stat. 756 (1993) (codified as 16 U.S.C. 539(i)).

5. Accordingly, IT IS ORDERED, That the Petition for Rule Making filed by Jacor Broadcasting of Colorado, Inc. proposing the allotment of Channel 261C2 to Creede, Colorado, IS DISMISSED.

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau